



JFW 3682

PATENT  
1379-1-014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Teodor AKINFIEV *et al* ART UNIT : 3682  
SERIAL NO. : 09/914,432 EXAMINER : T.P. McNulty  
FILED : December 3, 2001  
FOR : DEVICE OF A WORKING ELEMENT WITH TWO DEGREES  
OF MOBILITY

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

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Lois A. Snure  
(Name of Depositor)

Lois A. Snure 9/27/04  
(Signature and Date)

REQUEST FOR WITHDRAWAL OF IMPROPER ABANDONMENT

COMMISSIONER FOR PATENTS  
BOX AF  
WASHINGTON, D.C. 20231

Dear Sir:


Applicants herewith request that the Notice of Abandonment Mailed September 22, 2004, be vacated and withdrawn, as the Request For Continued Examiner (RCE) was properly filed and based.

Specifically, an Amendment After Final Rejection was submitted to the U.S. Patent and Trademark Office by mailing on November 26, 2003. An Advisory Action responsive to the Amendment After Final (Paper No. 15, dated December 19, 2003) acknowledged receipt of the Amendment After Final and indicated that it would not be entered and would not be considered on appeal. A copy of the form PTOL-303 is attached as Exhibit 1 for this purpose.

After a Notice of Appeal was filed to maintain the pendency of the present application, it was determined that the RCE would be filed. As is evident on the face of the standard Transmittal of the RCE (PTO/SB/30), any amendment that was submitted after final rejection which was not entered, is considered to be a response in accordance with 37 CFR 1.114. Therefore, Applicants submit that a sufficient and timely response was on record, that is compliant with 37 CFR 1.114, and thereby renders the RCE as properly and fully based.

Accordingly, in view of the above, applicants believe that the holding of abandonment is improperly and should be withdrawn. Such favorable action is accordingly solicited.

Respectfully submitted,



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Enclosure

**Advisory Action**

Application No.

09/914,432

Applicant(s)

AKINFIEV ET AL.

Examiner

Timothy P McAnulty

Art Unit

3682

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 November 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: the newly added claims require further consideration.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 12-17 as per Final rejection.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

**BEST AVAILABLE COPY****WILLIAM C. JOYCE  
PRIMARY EXAMINER**

EXHIBIT 1